

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO

FILED

OCT 04 2021

Clerk of Court, United States District Court
Ohio Northern District - CLEVELAND

Robert Warner
P.O. Box 16066
Rocky River, Ohio 44116
Plaintiff, Pro Se

vs.

Amazon.com, Inc.
440 Terry Ave N.
Seattle, WA, 98109
Defendant

Case No. **1:21 CV 1885**

COMPLAINT

JUDGE GWIN

MAG. JUDGE RUIZ

- 1 1. **Jurisdiction;** The Court has jurisdiction over the matters addressed herein as named
2 Defendants violated the protections ensconced in the 1st, 5th, 9th and 14th Amendment of the
3 United States Constitution, as well as Title VII of the Civil Rights Act of 1964, and they violate,
4 and attempt to force me to violate, 18 U.S. Code § 2385 - Advocating overthrow of
5 Government. They have also retaliated against me with disciplinary actions after I requested a
6 Right To Sue from the U.S. Equal Employment Opportunity Commission (hereafter, the
7 EEOC). They committed these violations as both a private entity and as a State Actor.
- 8 2. **Remedies Exhausted:** Administrative remedies were exhausted prior to the filing of this suit.
9 Having filed a complaint with the EEOC, as required by law, I waited over 11 months for the
10 EEOC to investigate. The EEOC, having never even opened an investigation, granted to me
11 permission to file this suit (the Notice of Right To Sue is included after the final page of this
12 Complaint).
- 13 3. **Introduction:** I am employed by Amazon at their fulfillment center at 1155 Babbit Road in
14 Euclid Ohio. Amazon transferred me, and continues to transfer me, to less desirable
15 departments because I refused to protest police and refused to honor, and worship, George
16 Floyd. The demand to honor and worship him is rooted in, and based on, race. The ordering of
17 all employees, to protest police, directly contributes to the current anti-police climate and
18 activities which results in the slaughter of citizens, the ambushes and murders of police
19 officers, and the inability of States to maintain basic policing functions; these all pose an
20 existential threat to state governments. The reason that Amazon ordered such worship and
21 protest was as a cynical ploy to deflect from their pervasive discrimination, witnessed by
22 myself, against black Americans in hiring and promotions.

4. **The Events:** On or about June 16, 2020, Amazon ordered me, and all employees, to observe a moment of silence lasting 8 minute and 46 seconds, the amount of time (then-reported) that Officer Derek Chauvin kneeled on Mr. George Floyd's neck to murder him. During that period, Amazon ordered me- and all employees- to cease all work and remain silent. This order had a two-fold purpose; to force me to protest, and condemn, police and to join in mass worship to a dead man for no reason except the color of his skin. When I refused to observe this moment of silence, I was FORCED to comply when Amazon sent a supervisor over to directly, explicitly order and force me to cease all work and to directly, explicitly order and force me to cease speaking. The supervisor first ordered me to stop working. He then, every time I attempted to speak, ordered me to "*Hush, just hush*". In retaliation for my Constitutionally and lawfully protected actions, I was eventually transferred by an African American supervisor to a less desirable position- I was transferred from my chosen and assigned "Pack Flow" department to the less desirable "Pack Singles" department which requires labor that is far more strenuous and damaging to the human body, and which causes me pain which starts during the shift and continues for least several hours or days after the shift ends. The net result is that I was in a state of pain continuously every day, all day as a result of the illegal transfer. As a result of that transfer to "Pack Singles" I was required, for the entirety of every 10.5-hour shift, to relentlessly perform tasks which the Occupational Safety and Health Administration (OSHA) defines as "... *work situations that may put (me) in "awkward" positions*" which "*put excessive strain on the vertebral discs and soft tissues in the back*" (see Exhibit B). If not for Amazon's discriminatory transfer, I would not have been required to perform such damaging tasks. Furthermore, Amazon has intentionally engineered these tasks to needlessly put extra strain on human backs- my back- by needlessly forcing all workers to hold weight

46 further from our bodies than necessary, forcing us to pointlessly extend our arms while holding
47 heavy packages in direct violation of OSHA guidance (and, indeed, all training, experience,
48 guidance, common knowledge, common sense and advice from anyone knowledgeable, at all,
49 in lifting). They instituted these requirements, to lift unsafely, in order to avoid re-engineering
50 faultily designed conveyor systems.

51 This punitive change in my job duties continued for months, without break, until I filed a
52 complaint with the Equal Employment Opportunity Commission (EEOC), after which they
53 reversed the permanent transfer. However, the transfer continues intermittently, as does the
54 resulting pain from such labor. Amazon has never, even in their Position Statement to the
55 EEOC in reply to my Charge, provided any business-related or non-discriminatory
56 reason for this transfer. Indeed, they have offered no reason whatsoever. Rather than offer
57 any non-discriminatory justification for the transfer they lied to, both, me and the EEOC by
58 denying that the transfer even took place.

59 I continue to be subject to intermittent, temporary transfers from my department which
60 most workers in my department are not subject to. I am being subjected to such transfers as a
61 direct result of the original act of retaliatory discrimination described above (pages 2 through
62 4, lines 11 through 49). The justification which Amazon always uses for these temporary
63 transfers is that I have been cross-trained in "Pack Singles" whereas most people in my
64 department have not. However, this cross-training only occurred as a key element of my
65 original, then-permanent, discriminatory and illegal transfer. If not for that illegal transfer, I
66 would have never been cross-trained and, so, the currently occurring temporary transfers would
67 not be possible according to Amazon policy. I have protested such transfers often and the last
68 time that I protested, I was subjected to written discipline constructed in a way which was

slanderous and untrue by my area manager, Richard Perez, and I was further punished by being permanently removed from my position in the “Problem Solve” position which I had occupied for months (it is a position that I accepted with the understanding that I could change my mind if I so desired). This removal from “Problem Solve” occurred immediately after- on the same day- after I requested, of the EEOC, the right to sue Amazon

5. Constitutional Violations and Law Violations.

- a. The order to observe a moment of silence for a specific, dead, person is a violation of my right to the free exercise of religion guaranteed by the U.S. Constitution’s 1st Amendment.
- b. The order for me to remain silent in support of criminals, and to protest the police, is a violation of my right to freedom of speech guaranteed by the U.S. Constitution’s 1st Amendment.
- c. Forcing me to support criminals, and to protest the police, based on the race of criminals violates the U.S. Constitution’s 5th and 14th Amendments as well as Title VII of the Civil Rights Act of 1964.
- d. Punishing me for my refusal to support criminals, and to protest the police, based on the race of criminals violates the U.S. Constitution’s 5th and 14th Amendments as well as Title VII of the Civil Rights Act of 1964.
- e. Forcing me to attest to, and support, a position which contributes to the murder of police officers, as the current anti-police movement does, violates the U.S. Constitution’s 9th Amendment and violates **18 U.S. Code § 2385 - Advocating overthrow of Government.**

91 6. **Relation to Societal Issues.** The actions by Amazon cannot be completely understood without
92 understanding their relation to current societal conflicts; virtually all demonstrations, riots and
93 conflicts over police, and their actions, are race based. I, the Courts or named defendants would
94 be hard-pressed to find any protests against police that are not based on the fact that it is a
95 person of color who is the subject of such police actions. I, the Courts or named defendants
96 would be hard-pressed to find many- if any- protests of police actions against white people
97 even though statistics show that white suspects are statistically as likely, or more likely, to
98 suffer physical injury or death by police as a result of their criminal activities. It can be shown
99 that protests against police actions have little to do with whether the police acted properly and
100 everything to do with the color of the suspect's skin. THAT is what Amazon forced me to
101 participate in- support for black criminals. To be clear, the attempt of Amazon to compel me
102 to protest "police brutality" is, in reality, an attempt of Amazon to compel me to support black
103 criminals- not the overwhelming majority of black citizens who are honest, law abiding people-
104 - in their fighting against, and killing of, police officers.

105 Protest against the police and the "Defund The Police" movement cannot, in any real way,
106 be divorced from each other- they are inextricably intertwined with, and tied to, one another
107 and being forced to support one is being forced to support both. An even cursory look at the
108 effects of this anti-police movement can be shown to violate anti-sedition laws. As a result of
109 this anti-police movement, civil society is currently breaking down- our laws are not being
110 enforced, police forces are being decimated, police officers are being ambushed and murdered
111 for sport and our citizens are being slaughtered due to lack of police protection brought about
112 DIRECTLY by actions that Amazon chose to join in, support and abet when they forced their
113 workers- including myself- to protest the police without regard to their, and my, opinions on

such matters. This violates 18 U.S. Code § 2385, which defines “*Whoever knowingly or willfully advocates, abets, advises, or teaches the duty, necessity, desirability, or propriety of overthrowing or destroying the government of the United States or the government of any State, Territory, District or Possession thereof*” as people who are “*Advocating overthrow of Government*”. Advocates of the “Defund The Police” and anti-police can be found repeatedly calling for the destruction of our governments and the murder of police officers.

Furthermore, arguably, the United Nations recommends 222 police officers per 100,000 of population. Though this recommendation is disputed, in demanding the elimination of all police, the “defund the police” movement is in clear violation of the International Red Cross’s “International Rules And Standards For Policing”. In that “International Rules And Standards For Policing”, the International Red Cross declared that “*It is the State’s responsibility to maintain law and order, peace and security within its territory.... they have to ensure that law enforcement is carried out in a way that respects the State’s obligations under IHRL... As representatives of the State, law enforcement officials are expected to fulfil the above obligations when carrying out their responsibilities, i.e. to maintain public order, to prevent and detect crime and to provide aid and assistance in all kinds of emergencies. They are given specific powers to enable them to carry out their tasks: the power to use force and firearms, to arrest and detain, and to carry out searches or seizure...*”; the “defund the police” movement strives to deny the state’s ability to maintain that vital function. Such a position is seditious- it seeks to render States unable to fulfill their basic functions and constitutes an overthrow of those States.

7. **Amazon is a State Actor**; As stated in Section 1 of this Complaint, above, Amazon violated several Constitutional rights and several laws as both a private entity and a State Actor.

Amazon ships packages all over the nation and businesses across the entire nation have been affected by various levels of shutdowns during this pandemic at the same time that the events described in this lawsuit took place. Amazon, however, has been granted special status by the Federal government and has been allowed to continue functioning while so many other companies- Amazon's direct competitors- have been ORDERED to shut down. President Trump, on March 16, 2020, issued guidance that continues to this day and was in effect during all events related to this lawsuit; it declared that ***"If you work in a critical infrastructure industry, as defined by the Department of Homeland Security, such as health care service and pharmaceutical and food supply, you have a special responsibility to maintain your normal work schedule"***. Three days later, the Department of Homeland Security- on March 19, 2020- issued a ***"Memorandum On Identification Of Essential Critical Infrastructure Workers During Covid-19 Response"*** which placed Amazon, and its workers, squarely under the umbrella of "Critical Infrastructure" and excluded them from Covid-related lockdowns. This is not a minor matter; Amazon embraced their status, issuing letters to all of its workers to present to law enforcement detailing Amazon's special status and exempting Amazon workers from Covid lockdown- related law enforcement actions. As a direct result of their government-mandated special status which allowed them to operate at full bore while forcibly shutting down their competitors- an action that could very well be interpreted as a nationalization of America's retail industry- Amazon's profit's doubled or tripled. All of these actions and circumstances, taken together, show an entwinement pervasive, and severe, enough to pass the entwinement standard set by the Supreme Court of The United States to trigger Amazon's status as a State Actor. All levels of government and all law enforcement have become entwined in the monolith that is Amazon at the expense of all of its competitors. All

160 levels of government and all law enforcement have directly aided and abetted Amazon's
161 victory over it's competitors.

162 8. **Amazon's racism against people of color.** All of the actions taken by Amazon, supposedly
163 in support of African Americans, are in reality nothing more than duplicitous attempts to
164 deflect from their rampant discrimination against black people. Though it has gotten
165 marginally better only recently, during the first year that I worked in the fulfillment center
166 (starting at the beginning of 2020), I witnessed two things; almost all of Amazons non-
167 supervisory employees were black and EVERY supervisor-level employee was non-black with
168 the rare exception of a very few low-level, sub-manager roles (trainers and process assistants).
169 This is especially disconcerting when the location of the fulfillment center is taken into
170 account, in Euclid Ohio; the population of Euclid OH and Cleveland OH (the main sources of
171 Amazon's workforce), is mostly black (by a huge margin). I submit that the exclusion of blacks
172 from the supervisory ranks, in a population and workforce almost entirely black, can only take
173 place under a blatantly racist scheme. Furthermore, anti-black racism is pervasive throughout
174 Amazon's entire corporation.

175 9. **Relief sought.**

176 a. Injunctive relief.

- 177 i. I ask the Court to order Amazon to cease assigning me to work in any area
178 except that which I worked before Amazon's illegal transfer, Pack Flow.
- 179 ii. I ask the Court to order Amazon to restore me to my position as a packer in
180 Problem Solve, which I was assigned to before complaining the last about
181 discrimination.

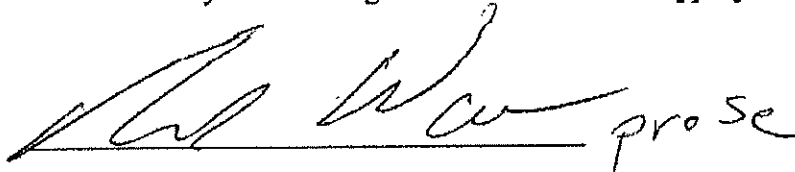
182 iii. I ask the Court to order Amazon to halt all promotions, and hiring, for
183 supervisory roles, until a competent third party can analyze Amazon's methods
184 for those hiring practices to determine how anti-black racism affects such
185 decisions and until a plan for eliminating that racism can be designed and
186 implemented.

187 iv. I ask the Court to order Amazon to halt all financial contributions and support,
188 and all other support including that in verbal, written or graphical form, for any
189 organization which, or person who, supports anti-police or communist
190 activities.

191 b. Punitive Damages.

192 c. Pain and suffering.

193 d. Any other damages that the Court finds appropriate.

A handwritten signature in black ink, appearing to read "Robert Warner", followed by the words "pro se" in a cursive script.

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10/2/2021